

1 IAN C. ESTRADA, ESQ.
2 Nevada Bar No. 12575
3 **RICHARD HARRIS LAW FIRM**
4 801 South Fourth Street
5 Las Vegas, Nevada 89101
6 Phone: (702) 444-4444
7 Fax: (702) 444-4455
8 E-Mail: Ian@RichardHarrisLaw.com
9 *Attorneys for Plaintiff*

10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 TONIE ROBINSON,
13
14 Plaintiff,

15 vs.

16 MV TRANSPORTATION, INC.; DOE BUS
17 OPERATOR; DOE BUS DRIVER; DOES I-
18 X; and ROE CORPORATIONS I-X,
inclusive,

Defendants.

CASE NO.: 2:17-cv-01491-RFB-PAL

MOTION TO SUBSTITUTE PARTY

19 Ian C. Estrada, Esq., counsel for deceased Plaintiff, Tonie Robinson, the deceased's
20 surviving spouse, James Robinson, hereby move this Court to substitute Robert O. McMaster as
21 Plaintiff in this matter.

22 This Motion is made and based on the papers and pleadings on file herein, the following
23 Memorandum of Points and Authorities, and any oral argument by counsel at the time of any
24 hearing on this Motion.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Tonie Robinson died on November 23, 2018. On August 4, 2021, the Court denied Defendant MV Transportation, Inc.'s Motion to Dismiss and granted an extension of time, until August 9, 2021, for Plaintiff to file a Motion to Substitute Party.

Pursuant to this Court's August 4, 2021 Order as well as FRCP 25, the surviving spouse and legal heir of Plaintiff Tonie Robinson, James Robinson, moves the Court to substitute Robert O. McMaster, the Petitioner for Special Administration of the Estate of Tonie Robinson to be substituted into this matter as Plaintiff.

II. STATEMENT OF FACTS

On August 4, 2021, this Court denied Defendant MV Transportation's Motion to Dismiss for failure to substitute a party in place of decedent, Tonie Robinson. The Court's Minute Order denied the Motion without prejudice, finding that "there is excusable neglect in this case. The Court finds that the parties continued to have intermittent contact about this case and the failure to file the motion was an inadvertent oversight." Therefore, the Court also granted the undersigned's Motion to Extend Time to substitute party.

On August 9, 2021, Robert O. McMaster filed a Petition for Special Letters of Administration in the Eighth Judicial District Court of Nevada, Clark County to be named as the Special Administrator of the Estate of Tonie Robinson for purposes of continuing this litigation as a survival claim on behalf the estate pursuant to NRS 41.100. *See Exhibit 1.* This Motion will be supplemented with the Order Granting Petition and the Letters of Special Administration immediately upon receipt of the same.

III. LEGAL ARGUMENT

Pursuant to FRCP 25, Plaintiff Tonie Robinson's surviving spouse and legal heir, James Robinson, and Petitioner for Special Administration of the Estate of Tonie Robinson, Robert O. McMaster, request that this Court substitute Robert O. McMaster as Plaintiff in this matter.

Alternatively, Mr. Robinson and Mr. McMaster request that the Court extend the deadline for the estate to be substituted into this matter for 45 days to allow time for the Eighth Judicial District Court of Nevada to review Mr. McMaster's Petition and to enter the Order and Letters of Special Administration.

IV. CONCLUSION

Based on the foregoing, the Court should enter an order substituting Robert O. McMaster as Plaintiff in this matter if this Motion is supplemented with the Order and Letters of Special Administration prior to the Court's ruling on this matter. Alternatively, the Court should grant a 45 day extension of time to allow the undersigned to obtain an Order and Letters of Special Administration with Plaintiff to file a status update with the Court on the 45th day if the Order and Letters are not yet obtained.

DATED this 9th day of August, 2021

RICHARD HARRIS LAW FIRM

/s/ Ian C. Estrada

IAN C. ESTRADA, ESQ.

Nevada Bar No. 12575

801 South Fourth Street

Las Vegas, NV 89101

Attorneys for Plaintiff and Heir, James Robinson

Order

IT IS ORDERED that ECF No. 66 is GRANTED as unopposed under LR 7-2(d).

IT IS SO ORDERED

DATED: 3:52 pm, August 30, 2021

**BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE**